

**REMARKS**

Claims 1, and 3-26 remain pending after entry of this amendment. Claims 1, 12, 19, and 21 were amended herein. The amendments do not add new matter, support for the amendments to claims 1, 12, 19, and 21 can be found at least at page 6, lines 8-11. Claims 23-26 were added herein. Support for newly added claims 23, and 24, can be found at least at page 16, lines 7-11. Support for newly added claims 25 and 26 can be found at least at page 26, lines 24-25.

Claims 12-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wardle (U.S. Patent No. 6,432,039). Applicant respectfully traverses this rejection.

Claims 1, and 3-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Alferness (U.S. Patent No. 6,077,218). Applicant respectfully traverses this rejection.

Claims 1, and 3-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rosenberg (U.S. Patent No. 5,713,954). Applicant respectfully traverses this rejection.

**Rejections under 35 U.S.C. § 102**

Claims 12-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wardle (U.S. Patent No. 6,432,039). Claim 12 has been amended to specify that the device provides intimate, non-shifting contact between the therapeutic agent and the target surface of the heart. The device of Wardle '039 does not provide intimate, non-shifting contact between the therapeutic agent and the target surface of the heart. The device of Wardle utilizes a delivery source that is removed from the jacket itself, and does not provide intimate, non-shifting contact between the agent and the target surface of the heart. As seen in Wardle, the drug delivery line 389 simply dispenses the drug in the vicinity of the heart and relies on flow holes 391 so that the drug can disperse itself effectively to wherever it may flow (column 8, lines 36-44). Based at least on the amendment of claim 12 above, and the comments offered herein, Applicant respectfully requests that this rejection be withdrawn.

Claims 1, and 3-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Alferness '218 (U.S. Patent No. 6,077,218). Claims 1, 12, 19, and 21 have been amended to specify that the device provides intimate, non-shifting contact between the therapeutic agent and the target surface of the heart. Applicant respectfully disagrees with the Examiner's characterization of Alferness '218 in that the bioadhesive cannot be considered a delivery source for therapeutic agents. When Alferness '218 refers to an adhesive, it is referred to in the context

of securing the jacket to the epicardium (column 4, lines 38-46), it is not disclosed that the bioadhesive is meant to release therapeutic agents. Therefore, Alferness '218 does not anticipate the pending claims because it does not contain all of the elements of the pending claims. Applicant respectfully requests that this rejection be withdrawn.

Claims 1, and 3-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rosenberg (U.S. Patent No. 5,713,954). The Examiner asserts that Rosenberg '954 teaches a delivery source. Applicant respectfully disagrees with this characterization of Rosenberg '954. Applicant assumes that the Examiner is looking to Figure 10 for the delivery source. The reservoir 21 in Figure 10 contains hydraulic fluid that is pumped into the artificial myocardium 11 by the hydraulic pump 19. The fluid contained in the reservoir 21 is neither therapeutic nor delivered to the heart, it is contained within the artificial myocardium 11.

At least because the device of Rosenberg '954 has no delivery source, it fails to disclose all of the elements of the claimed invention, and certainly doesn't disclose the elements that were added to the amended claims 1, 12, 19, and 21, and therefore does not anticipate the pending claims. Applicant therefore respectfully requests that this rejection be withdrawn.

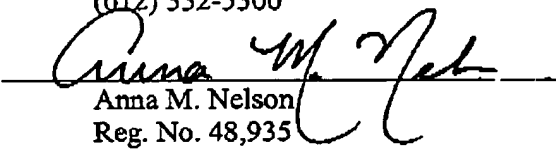
### Conclusions

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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